BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 95-1000-E - ORDER NO. 96-98

FEBRUARY 12, 1996

IN RE: Application of South Carolina Electric & Gas Company for an Increase in the Company's Electric Rates and Charges.	))))	ORDER DENYING PETITIONS FOR REHEARING

In their Petitions for Rehearing, the Consumer Advocate for the State of South Carolina and Dr. John C. Ruoff (the "Joint Petitioners") challenge the Public Service Commission of South Carolina's (the "Commission's") decision in this South Carolina Electric & Gas Company ("SCE&G" or the "Company") rate matter in a total of sixteen specific areas. The South Carolina Energy Users Committee ("SCEUC") challenges the decision in two areas.

I.

COPE PLANT -- PROPERTY TAXES

The Joint Petitioners contend that the property taxes which SCE&G will pay on its newly completed generation plant at Cope, in Orangeburg County, cannot be determined, and therefore must be excluded from the utility's expenses for ratemaking purposes. The gist of the Petitioners' argument is that future Orangeburg County tax rates are not known or measurable.

The amount of future property taxes on the Cope Plant is known and measurable for regulatory purposes with reasonable

certainty. The value of the plant is known. The millage presently levied in Orangeburg County is known. There is no evidence that the millage will go down in Orangeburg County in future years, as the Petitioners urge us to predict, only speculation.

The Joint Petitioners do not suggest any pattern of millage rate decreases when major new manufacturing facilities have been added to the tax rolls in South Carolina. They do, however, point to the experience in Fairfield County, where the property tax millage decreased moderately after SCE&G's V.C. Summer Nuclear Plant entered the property tax base in the mid-1980's. (The Fairfield County millage rate subsequently resumed and exceeded its pre-Summer level.) On the record before us, however, there is no basis for predicting a sustained decrease in the millage level in Orangeburg County. The new plant at Cope represents a far smaller investment than did the Summer Nuclear Plant, and Orangeburg County is a much larger county than Fairfield.

Under the test year method, actual experience during the test year is used to predict future costs, unless the parties present a valid reason to depart from it. The Joint Petitioners have not suggested a better means to predict millage rates than actual test year experience. Under these circumstances, it is reasonable to gauge the property taxes which SCE&G is likely to pay upon its new plant by applying the present millage to the known value of the plant. The first contention of the Joint Petitioners is therefore rejected.

II.

EDISON ELECTRIC INSTITUTE (EEI) DUES

The Commission's allowance of all but $41,526 of SCE&G's dues to the Edison Electric Institute, a national association of electric utilities, is challenged by the Joint Petitioners on several grounds.

The Joint Petitioners appear to have misapprehended what the Commission has done. SCE&G's total EEI dues during the test year were $289,582. The Commission excluded 29.34% of that amount, based on the NARUC Audit Report issued in March of 1992. Contrary to the Joint Petitioner's assertion, this percentage of exclusion is precisely the percentage of exclusion employed in Order No. 93-465.

Applying the 29.34% exclusion to the test year amount, the Commission excluded $84,963 from SCE&G's EEI dues. From this amount, the Commission deducted the amount of $43,437 which had already been excluded by the Company before filing its rate request. This resulted in a total additional exclusion of $41,526.

The Consumer Advocate's witness Mr. Miller proposed a total additional exclusion of $52,473. The exclusion he proposed was different, because he relied on a NARUC Report published in August 1995, after the case was filed. That report supported a 33.12% exclusion. Its existence was first raised in the weeks before the hearing when Mr. Miller's testimony was filed. The Staff had relied on the 1992 Report in its audit of the Company and

preparation of testimony.

The Consumer Advocate has not specifically challenged the use of the 1992 Report. The Commission finds that the difference in amounts to be excluded is not material. It is only $10,947 out of a total dues of $289,582 and total annual revenues of slightly less than $1 billion. Given that the 1995 NARUC Report appeared late in the administrative process, after much of the Staff's work had been done, the Commission reaffirms its decision to rely on the 1992 Report, with which the Staff and parties were well familiar, to exclude an additional $41,526 from SCE&G's test year EEI dues. We therefore reject the second contention of the Joint Petitioners.

III.

INJURIES AND DAMAGES RESERVE

The Joint Petitioners urge us to reconsider their proposal for a downward adjustment of the utility's "injuries and damages" expense incurred during the test year.

The test year approach to ratemaking is fundamental. The experience of the test year should be adjusted only when test year data is shown, with a reasonable degree of certainty, to be historically atypical, or else unlikely for some other reason to be a reliable predictor of future events. The utility's injuries and damages experience necessarily fluctuates over time. The test year experience yielded an expense amount higher than that in some recent years, but less than in others. Adjusted for inflation, the test year expense was substantially less than the average

annual expense during recent years.

The Joint Petitioners assert that the Commission abused its discretion by not limiting its comparison of test year experience to the last three calendar years, or perhaps the last five years. The Commission finds no "bright line" test which would forbid the Commission to consider the utility's experience before a certain point in time. Judgment is called for in determining whether the test year experience was atypical. The test year expense was considerably more than the expense incurred in 1992, and considerably less than the expense incurred in 1987. The test year expense falls near the average of the figures for the other years noted. It is inaccurate to say that the utility's test year experience was abnormal.

The Joint Petitioners contend that the Commission now is bound to limit its view to five past years in all cases and for all expense items. Again, there is no hard-and-fast rule. The Commission's goal is to determine whether the test year experience in a given expense category was typical or not. The Commission is not bound to limit its consideration to any particular past interval.

Lastly on this point, the Joint Petitioners contend that a particular automobile accident raised the test year injuries and damages expense to an unusually high level. The accident in question accounted for eleven percent (11%) of the test year expense. The Petitioners do not contend that it is unusual for a single accident to account for that much or more of the total loss

experience in a given year. The question is whether the test year experience as a whole was atypical. The evidence shows that it was not. We reject the Joint Petitioners' contention.

IV.

STEAM GENERATORS

The Consumer Advocate and Dr. Ruoff raised issues concerning confidential information about the Westinghouse settlement, the disclosure of which SCE&G objected to in its answers to interrogatories. The Joint Petitioners requested a copy of the settlement that SCE&G reached with Westinghouse in a lawsuit concerning the steam generators. SCE&G responded that the document was sealed by Federal Court Order.

The issue of confidentiality claims in the course of discovery in a Commission proceeding was dealt with in Hamm v. South Carolina Public Service Commission, 312 S.C. 238, 439 S.E.2d 853 (1994). In that case, the Petitioners sought certain information from SCE&G which the Company considered confidential. The Company raised an objection in its interrogatory response. The Petitioners moved to compel. In considering the Motion to Compel, the Commission balanced the interest of the utility in maintaining confidentiality with the materiality of the information requested to the Petitioner's case. A Confidentiality Order was tendered for signature by the Petitioners. On appeal, the Commission's action was upheld. The Court recognized that the Commission had the power and the responsibility to balance the conflicting interests in appropriate pre-hearing proceedings.

This this case, the record shows that the parties seeking discovery did not raise an objection to the Company's claim of confidentiality until the hearing was underway. No party asked the Commission to devise a way to allow the requested information to be exchanged. Instead, the Company's failure to divulge this information during discovery was raised as a ground to strike related testimony by the witness on the stand. The Commission finds that no timely objection to the Company's claim of confidentially has been raised. Had one been made, the Commission could have examined more alternate ways to balance the conflicting interests in the pre-hearing stages of the proceeding.

The Joint Petitioners further assert that the failure to place the Westinghouse settlement in the record creates an evidentiary gap in the record concerning the amounts transferred to Account 182.2. This is not the case. The amounts transferred to Account 182.2 are historical costs related to the original -- not the replacement -- steam generator. All relevant costs have been fully subject to audit and check. The amounts are accurate and in the record. We again reject the Joint Petitioner's arguments.

V.

CONSTRUCTION WORK IN PROGRESS (CWIP)

The Consumer Advocate and Dr. Ruoff challenge the inclusion of construction work in progress (CWIP) in rate base, on three grounds. First, the Joint Petitioners say that the customer does not benefit from the ratemaking policy. This Commission has

historically included construction work in progress as an element of rate base. To our knowledge, no court has ever disapproved this practice on any legal ground which could apply in this jurisdiction. The alternative is to exclude CWIP from rate base, which results in the utility adding additional financing costs to the construction cost of the project. This results in a higher capital cost when the project is complete, and higher rates during the useful life of the project. In addition, capital markets view the accumulation of these financing costs with disfavor, because they weaken the case position of a company during construction and raise rates after construction. For these reasons, the Commission reaffirms its commitment to the policy of including CWIP in rate base.

Secondly, the Joint Petitioners state that the Commission has failed "to establish a reasonable standard for determining appropriate CWIP adjustments." The Joint Petitioners argue that CWIP should be included in rate base only in the last year before a project's completion. This policy is arbitrary and undermines the logic and benefits of CWIP. So long as a project is prudent and necessary for providing service to customers, there is no reason to exclude the CWIP related to it from rate base. Whether a project is due to be completed in one year or five is irrelevant. The effect of excluding the CWIP from rate base in both cases is the same.

Thirdly, the Joint Petitioners contend that there is no basis for a finding that the utility's construction work in progress is

part of a prudent construction program. Neither the Joint Petitioners nor any other party challenged the prudence of any specific elements of SCE&G's current construction work in progress. The Commission finds persuasive Company witness Addison's testimony that the projects in question were prudent and necessary to meet environmental requirements and customer needs. If the Commission's Staff or any party were to challenge the prudence of any particular item of CWIP, the Commission would scrutinize the challenged item to resolve the issue. But, as noted above, neither the Joint Petitioners, the Staff, nor any other party has challenged any specific item of CWIP. We again reject the contentions of the Joint Petitioners.

VI.

CASH WORKING CAPITAL

The Joint Petitioners challenge use of the "one-eighth formula" for calculating cash working capital. The Joint Petitioners state that the Commission is barred from adopting the one-eighth formula across the board as a matter of policy, and rather, must require a lead-lag study to be conducted in every ratemaking proceeding. The Commission continues to believe that this would be inappropriate. Many commissions employ the one-eighth formula approach, validated by many years of regulatory experience. The Commission finds that the formula method provides a reasonable approximation of a utility's cash working capital needs in this case, as well as others. Lead-lag studies are highly dependent on the assumptions used and selection methods

employed. They are not necessarily more accurate or conclusive than the formula approach. The experience of this Commission and many others nationally has convinced us that a formula approach provides a reliable estimate of cash working capital needs. We believe this rationale is equally applicable to this case. We reject the Joint Petitioners' contention.

VII.

CUSTOMER GROWTH

The Consumer Advocate and Dr. Ruoff contend that test year revenues should be adjusted to reflect the fact that the number of customers taking electricity from SCE&G continued to grow after the test year ended, as is normally the case. The number of customers is one variable among many in the ratemaking calculation which fluctuate over time. If the test year revenues are to be adjusted to reflect a post-test year increase in the customer base, then logically the test year expenses would have to be adjusted to reflect the related growth in rate base investment and in operating and maintenance expense incurred to serve these new customers.

It is not possible to isolate customer growth, and the revenues which come with it, from the rate base growth and operating expense growth which are necessary to serve the customer growth. To do so mismatches revenues and expenses.

The Joint Petitioners point out that the Commission has allowed post-test year adjustments in customer growth in one other case. Each case must stand on its own facts. The parties and

evidence here are different. The Joint Petitioners have offered no evidence which would warrant such an adjustment here.

VIII.

OFFICER SALARY INCREASES

One of the utility's operating expenses consists of employee compensation. Compensation may take the form of wages, salaries, incentive, fringe benefits, and other forms of remuneration. Employee compensation is not static, but reflects increases granted during the test year.

The Joint Petitioners contend that test year increases in the salaries of officers should not be counted in setting rates, because the Commission in previous rate proceedings has sometimes excluded such salary increases. Where the Commission has chosen in past cases to exclude such salary increases, it has done so for reasons related to overall economic circumstances at the time. The Commission has never adopted a policy of excluding salary increases occurring during the test year. The evidence here show that SCE&G's officers' salaries remain significantly below industry standards. In the circumstances of this case, and in light of present economic circumstances, the Commission finds no reason to disallow these increases.

The Joint Petitioners complain that the prudence of officer salaries was evaluated in a study done by Hewitt Associates, which the utility refused to provide in discovery. In fact, the utility provided a substantial amount of information from the study but did not provide certain other information that the Company deemed

confidential. As noted above, the Commission could have fashioned a remedy prior to the hearing had it known that there was a dispute over information.

The Joint Petitioners contend that the reasonableness of the compensation of SCE&G's officers should be measured, not by comparing their compensation to that of comparable officers in comparable utilities elsewhere, but by comparing their compensation to that of people employed in South Carolina outside the utility industry.

The Commission, however, finds persuasive the testimony of Mr. Delahanty that SCE&G's officers' pay is significantly below that of comparable utility companies and that utility companies as a group pay well below unregulated industries. The Commission further finds persuasive the testimony that SCE&G must move closer to market pay if it is to retain and attract qualified executives, particularly as deregulation comes to the electric industry.

Joint Petitioners suggestion that an analysis of South Carolina pay scales should be done is interesting. But Joint Petitioners presented no evidence that such an analysis would show SCE&G's officers are overcompensated. The only evidence of record is that they are undercompensated by a substantial amount.

Ultimately, these questions concerning the compensation study go to the weight of Mr. Delahanty's testimony. The Commission finds that testimony persuasive on the fact that SCE&G's test year officer salaries, including salary increases, are reasonable and prudent, and we reject Joint Petitioners' assertions.

IX.

OFFICER INCENTIVES

As is generally the case within the electric industry, SCE&G provides financial incentives, based upon performance to some of its officers as part of their overall compensation package. The Joint Petitioners urge us to disallow such incentives. As grounds, the Joint Petitioners argue that the reasonableness of such officer incentives cannot be gauged by comparing this form of compensation with that received by utility officers in other states, because the cost of living elsewhere may be higher. For the same reasons given in the foregoing section of this Order, the Commission finds no merit in this contention.

Additionally, the Joint Petitioners contend that these incentives can be non-recurring. Any element of employee compensation, including officer incentive programs, will change over time. The fact that such operating expenses are subject to change does not mean that they are non-recurring. The Commission has based the level of these incentives in rates in actual test year experience. There is no evidence that test year levels were abnormal, that the program has changed in any way, or that the cost will be less in future years. The Commission finds that the test year level is a reasonable level for these incentives.

Lastly, the Joint Petitioners point out that the Commission has excluded officer incentive plans as a test year expense in some past rate cases. We have never adopted a policy of excluding all such elements of employee compensation. As the record shows,

these incentives have become an integral part of executive compensation both within this industry and nationally. These are reasonable utility expenses in the industry today, although the Commission reserves the right to reexamine this matter in future cases.

X.

EMISSION ALLOWANCES AND FEE REFUND

The Joint Petitioners contend that the Commission failed to set forth the underlying facts supporting the inclusion in rate base of emission allowances of $5,785,000. The Commission finds that these allowances are a necessary capital investment by the Company to meet air pollution control requirements. They are capital related expenditures, which are a substitute for capital investments in expensive SO2 scrubbing technologies. They are being added to rate base for the first time in this case. It is not appropriate to treat them as material and supplies, as the Joint Petitioners propose.

The Joint Petitioners assert that the Commission overlooked the testimony and recommendation of Mr. Miller on this point. We did not overlook Mr. Miller's recommendation but, after analysis, rejected it, as is necessarily implied form our concurrence with the recommendation of our Staff on this point, incompatible with Mr. Miller's.

XI.

RATE OF RETURN

All Petitioners take issue with the Commission's conclusions on rate of return on equity. The Joint Petitioners contend that the Commission must set forth factual findings to explain why it adopted a particular rate of return on common equity, and has not done so. The expert witnesses who opined on this key issue found that the cost of equity capital for this utility was as little as 8.61% and as much as 13%. The various economic models produced no fewer than ten different numbers or, more usually, ranges of numbers for this company's cost of equity capital. No expert witness sponsored a particular number as being "right". Each expert adopted a range of figures which he deemed most likely to encompass the cost of equity to this Company.

When it comes to the cost of equity capital, there is no single figure which is "right" in the sense that all other figures are "wrong". Rather, the experts provide a range of figures. Our Supreme Court has repeatedly held that, where the Commission adopts a figure encompassed within that range, our decision is supported by substantial evidence.

The Commission has found that the cost of equity capital for this Company at this time is 12.0%. In making that finding, the Commission has applied its experience and informed judgment to the evidence, and has taken into consideration a host of variables, as discussed in our previous Order. The return which the Commission has found to be fair and reasonable is well within the ambit of

the evidence. The reasons which underlie this Commission's finding in this regard are fully articulated in our previous Order. We have considered the Petitioner's request that the Commission reconsider our finding, but none of the Petitioners' reasons persuade us to do so. The Commission remains satisfied that this utility's present cost of equity capital is as the Commission found in the previous Order, and that the Commission's conclusion is supported by the evidence. Further, we do not think our decision is harmful to the State's business Community.

XII.

DEPRECIATION RESERVES

The Joint Petitioners contend that the depreciation transfer is premature, because deregulation may never occur. The Commission does not agree with this argument. Pressures for regulatory change in the electric industry are mounting. If deregulation occurs, large industrial and commercial customers are likely to be the first customers to be able to abandon their host utility's generation and search for power elsewhere. If they do, utilities will fail or smaller commercial and residential customers will be forced to pay for the generating assets that their larger neighbors have left behind.

In this context, the depreciation transfer accomplishes two important objectives. First, it lowers generation costs and reduces the pressure for large commercial and industrial customers to leave the system in the first place. Second, it ensures that if these larger customers do leave, the cost of the generating

assets they will leave behind for residential and other customers to bear is less.

For obvious reasons, it is important to make the depreciation transfer before large commercial and industrial customers begin to leave SCE&G's system. Given the amount of time that typically elapses between major rate proceedings, it is not prudent to wait until some future proceeding to put these important protections in place. As discussed earlier, this transfer has no material impact on electric rates in the present case. Accordingly, there is no discriminatory effect from the transfer. The Commission retains jurisdiction to approve or disapprove any future rate changes that the Company may request.

The Joint Petitioners say that this depreciation transfer "will undermine the evolution of competition under future conditions *** ." The Petitioners' witness Dr. Sinclair admitted that the shift would have no anticompetitive effect, if all users of the transmission system were required to pay the same price for transmission. Comparable access of this sort is the stated policy of the Federal Energy Regulatory Commission. This is exactly what the Commission would expect to occur if retail access were to become a reality. Accordingly, the Commission finds no anticompetitive impact from the shift.

The Petitioners point out that this action does not comport with traditional entries in the Uniform System of Accounts. That fact is not determinative. The Commission has statutory discretion to value and re-value assets. The Uniform System of

Accounts does not measure the Commission's discretion in valuation of assets. Departures from the usual accounting conventions are sometimes necessary to maintain just and reasonable rates, particularly in light of the shift toward competition. This is no more a deviation from the Uniform System of Accounts than was the 400 megawatt phase-in which the Commission imposed on SCE&G in 1984 in connection with the Summer Nuclear Plant, and which the courts upheld.

XIII.

COMPENSATION RELATED ITEMS

The Commission has carefully reviewed the allegations concerning the compensated related adjustment. The Joint Petitioners have not cited any evidence or other precedent to indicate that such an adjustment is outside the Commission's discretion. The Joint Petitioners disagree with the regulatory policies that this adjustment reflects. However, issues as to regulatory policy are entrusted to the Commission and not the parties.

The Commission expressly disagrees with the Joint Petitioners' assertion that the compensation related adjustments favor stockholders over customers. As the evidence amply indicates, all of the costs to be amortized under this program are reasonable and necessary costs of providing utility service. All of them are appropriate for recovery in rates. The only question is that of the timing of recovery as determined by the length of the amortization periods. Tying the amortization periods to a

stable level of compensation related recovery is an appropriate means to balance the interest of all parties. To adopt the Joint Petitioners' approach would unreasonably burden future ratepayers with costs that can be appropriately recovered today.

XIV.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

The Petitioners have not provided adequate information in this objection to inform the Commission of the basis for their concerns. Accordingly, any matters purportedly raised by this paragraph 19 of the Petition for Rehearing and Reconsideration are deemed waived.

XV.

ACCELERATED AMORTIZATION

The Joint Petitioners contend that the Commission's approval of shortened amortization periods for nuclear related assets effectively grants SCE&G the authority to raise its rates in 1997 or 1998. The utility has no authority to raise its rates then or at any time without Commission approval after a full rate proceeding. Changes in amortization periods are among the myriad of factors which may or may not warrant future changes in the rates. The only question before us at this time, however, is whether an acceleration in this recovery period for the costs in question is justified. We continue to believe that it is.

Nor is the accelerated nuclear asset recovery premature. Even beginning now, recovery of the investments will not be complete until the year 2000. Further, by putting in place a

means for SCE&G to amortize all of its regulatory assets by the end of that year, the Commission is sending a strong message to financial markets that the Company will remain a secure investment in the face of deregulation. Acting at this time is important to provide this assurance as the present period of regulatory uncertainty begins.

Nor is there any countervailing need to wait until 1997 to act. The Commission retains full jurisdiction over SCE&G. Should it determine at any time that the accelerated amortization is not needed, the Commission on its own motion, or any party by petition may seek appropriate relief. If, indeed, deregulation does not occur, then the transfer will have been meaningless and of significance to no one.

XVI.

STORM DAMAGE RESERVE

The Joint Petitioners and SCEUC object to the creation of a storm damage reserve on the ground that the amount needed for such a reserve is unknowable. The Petitioners contend that the amount sought by SCE&G to fund this reserve -- $50,000,000 -- is rooted in unrealistic predictions of the frequency with which hurricanes are likely to strike South Carolina in future years. It is true that we may go for many years, even decades, without suffering a major hurricane. Or, we may get several in rapid succession, as has happened. It is this very unpredictability which makes it difficult to decide the level at which a storm damage reserve account should be funded. But, if the creation of

such an account is prudent, as the Commission believes it to be, the difficulty of determining a prudent level of funding does not vitiate the effort. We are satisfied that $50,000,000 represents a prudent goal for such a reserve account, and that $5,000,000 annually is a reasonable pace upon which to accrue the account. We know precisely the amount of damage done to this utility's plant by previous storms. What the Commission does not know, and can never know, is when, and how often, such events may happen in the future. Under these conditions, the pace at which to fund such a reserve account, and the size of that account, are necessarily matters for informed judgment. Nothing said by the Petitioners convinces us that the judgment the Commission has made in this matter is wrong, or that other levels of funding would be more prudent than the ones chosen. More fundamentally, the Petitioners object to the creation of a storm damage reserve account altogether. The Petitioners believe that those customers who happen to be here when a major natural catastrophe occurs should foot the bill entirely, and that those who are lucky enough to take electricity during periods of no such disasters should get the entire benefit. This Commission disagrees with that point of view. The burden of natural disaster is one which should be spread, however imperfectly, over time. If the Petitioners' viewpoint were carried further, one could argue against the principle of insurance as a prudent utility expense. The purpose of insurance premiums is to spread the risk of loss over time, and to distribute that risk equitably.

The Joint Petitioners and SCEUC contend that the terms for administering the storm damage account are fatally vague. The tariff documents indicate that any sort of storm damage exceeding the $2 million threshold are properly included. Standard accounting principles will govern use of the reserve. The $2 million threshold amount ensures that the fund will not be used for routine weather related expenses. Furthermore, the Commission retains full regulatory oversight over the accounting or use of storm damage funds.

The storm damage reserve is an appropriate substitute for insurance on SCE&G's transmission and distribution system. The cost of comparable insurance, assuming such insurance were available, would far exceed the annual cost of the reserve. Unlike the reserve, these insurance premiums would extend indefinitely and would not result in any ongoing reduction to rate base as reserve payments would. The storm damage reserve is a prudent means for the Company to insure against storm risks.

Having reviewed the Petitioner's objections to the creation of this account, the Commission remains satisfied that its creation is a prudent and reasonable thing to do, at the level and at the pace of accrual approved in our original Order.

SCEUC contends that the Commission is not authorized to allow a utility "to hold a reserve fund of ratepayer money." The effect of creating a storm damage reserve is not to allow the utility to build up and hold ratepayer money as alleged. The effect is to spread the risk and the cost of storm damage in a uniform and

predictable manner over a period of time, in the same way that the payment of insurance premiums achieves that result.

SCEUC further challenges the Commission's decision to advance the implementation of the storm damage reserve account from 1997 to 1996. The Company proposed to begin collecting the reserve in 1997 but to collect the full $50 million during the five year period ending in the year 2002. The Commission decided to reduce the current impact on ratepayers by extending the collection period to ten years, but to partially offset the delay in accumulating the fund that this decision entails, the Commission decided to begin accumulation of the fund one year earlier. The decision to accelerate the beginning of collection is part of the balance the Commission struck between the Company's proposal and the proposals to lengthen the collection period. The Commission believes that decision was within its discretion.

XVII.

DUE PROCESS AND EQUAL PROTECTION

The Joint Petitioners assert that each of the specific errors alleged to have been made by the Commission are violations of the due process and equal protection clauses of the U.S. Constitution and the South Carolina Constitution. These blanket assertions of constitutional error are too broad to be considered, because they fail to specify how the Commission's findings violate the due process or equal protection clauses. Accordingly, the Commission must limit its consideration to the specific contentions of the Joint Petitioners.

XVIII.

PRECEDENT AND ABLE COMMUNICATIONS

The Joint Petitioners take the position at some points that the Commission has failed to follow its own precedent, and, at other times, that the Commission may not allow established policy to dictate its methodology in making its rulings. We find these positions inconsistent. However, in response to both points, we would state that we always state our reasoning when we make our findings, whether we depart from past Commission policy, or whether we follow it. We always analyze each case individually and arrive at such findings as may be appropriate for each particular case after a full examination of the evidence of record. Further, we reject the Consumer Advocate's position that we, at times, simply state each opposing opinion and arrive at a conclusion. We find it necessary at times to quote specific testimony to support our conclusions, and we do not believe that our use of this technique runs afoul of the Able Communications limitations, as cited by the Joint Petitioners, since we always give appropriate reasoning for our conclusions.

DECREE

WHEREFORE, the Petitions for Rehearing and/or Reconsideration are denied, because of the reasoning as delineated above.

BY ORDER OF THE COMMISSION:

Chairman

ATTEST:

Executive Director

(SEAL)